

**BEFORE THE POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001**

Annual Compliance Report, 2014

Docket No. ACR2014

REPLY COMMENTS OF PITNEY BOWES INC.

Pitney Bowes Inc. (Pitney Bowes) respectfully submits these reply comments in response to the comments filed by the American Postal Workers Union (APWU) and the Greeting Card Association (GCA) opposing the Metered Single-piece Letters rate (meter rate).¹ These comments also respond to the comments filed by Stamps.com.²

Establishing a separate meter rate to encourage small and medium-sized businesses (SMB) to increase mail volume and reduce costs is an appropriate use of the Postal Service's pricing flexibility. The arguments advanced by APWU and GCA find no support in the law and ignore Commission precedent in support of the meter rate as a nonworkshare, policy-based pricing differential that supports the operational efficiency of the Postal Service.

The exploration of alternative meter rate categories is premature. The added complexity of multiple sub-rates and additional eligibility requirements would likely deter use among SMB mailers. The Postal Service should focus on enhancing the value of the existing meter rate by increasing the price differential between the meter rate and the Stamped Single-piece Letters rate.

¹ See Initial Comments of American Postal Workers Union, AFL-CIO (Feb. 2, 2015)(APWU Comments); Initial Comments of the Greeting Card Association (Feb. 2, 2015)(GCA Comments).

² See Initial Comments of Stamps.com (Feb. 2, 2015)(Stamps.com Comments).

I. The Establishment of a Separate Meter Rate is an Appropriate Exercise of the Postal Service's Pricing Flexibility to Encourage Small and Medium-Sized Businesses to Stay in the Mail

The APWU and GCA comments allege that the meter rate is unlawful and urge the Commission to “take appropriate action.” APWU Comments at 11; GCA Comments at 12. These arguments find no support in law or Commission precedent and should be rejected as entirely without merit. The Postal Accountability and Enhancement Act (PAEA)³ expressly encourages the use of the Postal Service’s “pricing flexibility to increase mail volume and operational efficiency.”⁴ Furthermore, the Commission has specifically stated that the Postal Service has the authority to establish a separate meter rate:

The convention of setting the rate for the metered mail Base Group equal to the single-piece letter rate is not an issue that was explored on this record. *However, there does not appear to be any obvious legal barrier to the Postal Service exercising its pricing flexibility by setting the rate for the metered mail Base Group at a different level than the remainder of single-piece First-Class letters.* Moreover, the relative sophistication of users of the metered mail Base Group and the capabilities of metered and IBI technology suggest that a non-integer rate for this type of mail would be more workable than for other types of single-piece First-Class Mail.⁵

GCA ignores the Commission’s prior conclusion. APWU concedes that the Commission has found the meter rate is lawful, but argues that the recent decisions in the *GameFly* cases require a different result.⁶ See APWU Comments at 9. APWU misreads the *GameFly* decisions.

In *GameFly I*, the court held that *if* the Commission finds undue or unreasonable discrimination, *then* it must provide an adequate remedy. In *GameFly II* the court upheld the remedy adopted by the Commission on remand which equalized the cost of First-Class Mail letter and flat DVD rates, enabling either party to use either service at the same cost.⁷ APWU’s suggestion that the establishment of a separate meter rate is “remarkably similar” to the *GameFly*

³ See Pub. L. No. 109-435, 120 Stat. 3198 (Dec. 20, 2006). The PAEA amends various sections of title 39 of the United States Code. Unless otherwise noted, section references in these comments are to sections of title 39.

⁴ 39 U.S.C. § 3622(c)(7); see also 39 U.S.C. § 3622(b)(4) (“to allow the Postal Service pricing flexibility”).

⁵ Dkt. No. RM2010-13, Order No. 1320 (Apr. 20, 2012) at 11, n.22 (emphasis added).

⁶ See *United States Postal Service v. Postal Regulatory Comm’n*, 747 F.3d 906 (D.C. Cir. 2014) (*GameFly II*) and *GameFly, Inc. v. Postal Regulatory Comm’n*, 704 F.3d 145 (D.C. Cir. 2013) (*GameFly I*).

⁷ See *GameFly II*, 747 F.3d at 909.

case is perplexing. *Id.*, at 10. APWU’s only support for this statement is a passage it cites out of context from *GameFly I* regarding price differences between single-piece and presort letters. *Id.*, at 10-11. But the *GameFly* cases had nothing to do with how the Postal Service sets different prices for different rate categories and products. The pricing considerations were only relevant as part of the harm suffered by GameFly because the Postal Service unreasonably refused to provide GameFly the same special manual processing service that the Postal Service provided to Netflix for handling the same product at the same price. Because of the unjustified, disparate operational treatment, GameFly was forced to use a more expensive product. Here, there is no unjustified, disparate operational treatment and no undue or unreasonable discrimination; the *GameFly* cases are completely inapposite.

APWU and GCA’s generalized arguments that the meter rate violates the statutory objective for a “just and reasonable schedule of rates,” *see* 39 U.S.C. § 3622(b)(8), or the undue discrimination provisions under 39 U.S.C. § 403(c), also fail as a matter of law. Under the PAEA market-dominant products are protected from excessive price increases by the CPI price cap. The Commission has consistently held that the Postal Service has the pricing flexibility to adopt non-uniform prices within a class.⁸ Indeed, section 3622(b)(8) expressly permits price changes of “unequal magnitude within, between, or among classes of mail.”⁹ If anything the “just and reasonable” statutory objective supports a larger price differential for the meter rate because of the differences in unit contribution and cost coverage between stamped letters and metered letters (let alone Presort letters).

⁸ *See* Dkt. No. ACR2012, Annual Compliance Determination Report (May 7, 2013) at 82 (“Market dominant mailers have the protection of a price cap to shield them from excessive price increases. One objective of section 3622 is to allow the Postal Service pricing flexibility. Because the CPI cap is applied at the class level rather than the product level, it gives the Postal Service the ability to apply non-uniform price adjustments within a class.”)

⁹ 39 U.S.C. § 3622(b)(8).

There is no undue or unreasonable discrimination. The meter rate is a nonworkshare, policy-based pricing differential that is “consistent with the Postal Service’s goal of encouraging the use of meters rather than stamps.”¹⁰ Faced with different communication options, the separate meter rate provides an incentive to encourage SMB mailers to continue to use the mail and to explore new ways to use the mail to grow their businesses. The survey results presented by Stamps.com validate this concept. SMB mailers are aware of the price differential, and many are basing their mailing decisions on it. *See* Stamps.com Comments at 3-4. These data are consistent with the feedback that Pitney Bowes is receiving from its SMB clients.

The separate meter rate is also designed to encourage SMB mailers to use a more efficient, low cost, secure payment channel. This is also a reasonable and appropriate use of the Postal Service’s pricing flexibility because metered letters have lower unit mail processing cost (10.8 cents) than single-piece letters (13.1 cents).¹¹ Metered mail avoids the transactional costs of selling stamps at a retail window. Metered mail also provides the Postal Service with greater revenue security and mail security.¹²

These potential efficiency gains rebut GCA’s contention that the meter rate somehow thwarts the statutory objective in section 3622(b)(1)(“maximize incentives to reduce costs and increase efficiency”). *See* GCA Comments at 7. In fact, the opposite is true. The meter rate furthers the goals of section 3622(b)(1).

For the same reasons, APWU’s contention that the meter rate is “untethered to any technological efficiency,” and that the Postal Service cannot consider potential “operational savings” unless the rate is a workshare discount should be rejected. APWU Comments at 10.

¹⁰ Dkt. No. ACR2013, Annual Compliance Determination Report (Mar. 27, 2014) at 71.

¹¹ *See* USPS-FY14-26, FY14-26.shp14prc.slx, “Final Results.”

¹² *See* 39 U.S.C. §§ 3622(b)(7)(“enhance mail security and deter terrorism”) and 3622(c)(13)(“the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail”).

This position finds no support in the law and ignores Commission precedent approving the Full Service Intelligent Mail barcode discount as a nonworkshare, policy-based pricing differential that supports the operational efficiency of the Postal Service.¹³

APWU's contention that the Commission and the Postal Service cannot appeal to the experiences of foreign posts as legal authority for the meter rate is also unavailing. *See id.*, at 11. Neither the Postal Service nor the Commission claimed that the experience of international posts with channel-based pricing was the legal basis for the meter rate. Rather, international experience is cited to illustrate the benefits that may accrue from a meter rate. The Postal Service appropriately noted that many other posts have introduced meter discounts to increase volume and revenues and reduce costs:

Experience from foreign posts suggests that having a special meter rate encourages meter use for correspondence, transactional and/or marketing-related communication. This, in turn, also results in: (1) customer convenience and productivity gains for mailers, particularly small and mid-size businesses; (2) operational savings for the Postal Service because there is less need for stamp production and less costs incurred for distribution and cancellation; (3) lower postal revenue-protection risk associated with theft of stamps; and (4) more cross-selling opportunities. Once again, experience from foreign posts suggests that the availability and convenience of metering capability led to increase usage of the postal service offerings rather than those of the competitors.¹⁴

The Commission cited to this discussion in its decision approving the meter rate.¹⁵

Finally GCA's contention that the meter rate fails to comply with the revenue assurance objectives of the PAEA ignores the fact that the meter rate, as a form of rate deaveraging within Single-Piece First-Class Mail, is revenue neutral under the price cap. *See* GCA Comments at 8 (citing 39 U.S.C. § 3622(b)(5)). Moreover, to the extent the meter rate encourages SMB mailers

¹³ *See* Dkt. No. R2009-2, Order No. 191 (Mar. 16, 2009) at 28.

¹⁴ Dkt. No. R2013-10, United States Postal Service Notice of Rate Adjustment (Sept. 26, 2013) at 20.

¹⁵ Dkt. No. R2013-10, Order No. 1890 (Nov. 21, 2013) at 46.

to convert from using stamps to meters, the Postal Service will benefit financially because metered letters have lower unit mail processing costs than single-piece letters.¹⁶

GCA's empirical critique of the meter rate should also be disregarded. For the reasons discussed above, under the PAEA the Postal Service has the authority to establish a separate meter rate. In this sense GCA's contention that the price differential has been ineffective is irrelevant as a matter of compliance. The criticism is also premature. The meter rate was only in effect for two full quarters in FY2014. As noted in Pitney Bowes' initial comments the preliminary FY2014 ACR data suggest that the meter rate is having a positive effect.¹⁷ The Stamps.com survey data reveal that the price differential is important to the majority of its new customers. More time is needed to determine whether the meter rate stimulates the growth or stems the decline of SMB mail volumes, both laudable goals. Unfortunately, the Postal Service's decision in Dkt. No. R2015-4 to reduce the pricing differential between stamped letters and metered letters will diminish the benefits of the meter rate; the price differential should be increased or, at a minimum, restored to one cent in the next price adjustment.

II. Alternative Meter Rate Categories Are Premature and May Frustrate the Benefits of the Meter Rate

Pitney Bowes agrees with Stamps.com that the Postal Service's decision to decrease the price differential between the meter rate and the Stamped Single-piece Letters rate from one cent to one-half cent is a step in the wrong direction.¹⁸

Pitney Bowes disagrees with Stamps.com's suggestion that the Postal Service should consider alternative meter rate categories, including what it calls a "Qualified PC Postage" rate. Stamps.com Comments at 4-5. The exploration of alternative meter rate categories is premature.

¹⁶ See *supra* note 11.

¹⁷ See Dkt. No. ACR2014, Comments of Pitney Bowes Inc. (Feb. 2, 2015) at 4-5.

¹⁸ See Dkt. No. R2015-4, Comments of Stamps.com (Feb. 4, 2015) at 3.

The added complexity of multiple sub-rates for and added eligibility requirements would likely deter use and lead to frustrating client experiences for SMB mailers. The Postal Service should focus on enhancing the value of the existing meter rate by increasing the price differential between the meter rate and the Stamped Single-piece Letters rate.

For the reasons cited above, Pitney Bowes respectfully urges the Commission to affirm its position that the meter rate is a lawful and appropriate exercise of the Postal Service's pricing flexibility.

Respectfully submitted:

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